

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
WESTERN WIRELESS)
CORPORATION)
)
Petition for Preemption of an Order)
of the South Dakota Public Utilities)
Commission)

CC Docket No. 96-45

U S WEST COMMUNICATIONS, INC. COMMENTS

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September 2, 1999

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U S WEST COMMUNICATIONS, INC. COMMENTS

I. INTRODUCTION AND SUMMARY

U S WEST Communications, Inc. ("U S WEST") welcomes all legitimate Eligible Telecommunications Carrier ("ETC") applicants willing to help shoulder the load of providing ubiquitous and affordable basic service.¹ However, the obligations of ETC status must accompany the benefits. This is the law, and it is good policy. Nevertheless, Western Wireless Corporation ("WWC") is here trying to evade this maxim, just as it attempted to do before the South Dakota Public Utilities Commission ("SDPUC") in In the Matter of the Filing by GCC License Corporation for Designation as an Eligible Telecommunications Carrier, TC98-146 (SDPUC, 5/19/99) (Findings of Fact and Conclusions of Law; Notice of Entry of Order) (SDPUC Decision). The SDPUC rightly rejected the application and so should this

¹ U S WEST files these comments pursuant to the Public Notice, Western Wireless Corporation Petitions for Preemption of an Order of the South Dakota Public Utilities Commission, DA 99-1356, rel. July 19, 1999. Order extending dates for comments and reply comments, DA 99-1535, rel. Aug. 4, 1999.

Commission. That the SDPUC was correct on the law was confirmed by the recent decision of Texas Office of Public Util. Counsel v. FCC.² Moreover, WWC's tired barrier-to-entry argument is as barren of legal and factual support as it was before the SDPUC.

II. BACKGROUND

In the proceedings before the SDPUC, WWC asked that commission to approve its application for ETC status, but it provided no evidence to meet the statutory criteria. Indeed, it openly admitted that it did not presently offer or advertise a universal service package at all, let alone throughout its proposed service area.³ In addition, it admitted gaps in its coverage of its proposed service area; it further admitted that filling gaps was capital intensive; and it admitted that it was making 12 other applications for ETC status. Yet it refused to provide any financial plans or data to show that it could shoulder such a huge capital burden.⁴ All WWC did provide was its good intention to satisfy the statute eventually.

Not surprisingly, the SDPUC rejected this showing as insufficient:

18. The Commission finds that since GCC is not actually offering or providing a universal service offering through a fixed wireless system, it must deny GCC's application for ETC status throughout the state. Pursuant to 47 U.S.C. § 214(e)(2), the Commission may designate an additional requesting carrier as an ETC if it "meets the requirements of paragraph (1)." Paragraph one requires an ETC to offer the

² Texas Office of Public Util. Counsel v. FCC, ___ F.3d ___, 1999 U.S. App. LEXIS 17941 (5th Cir. 1999) ("TOPUC").

³ SDPUC Decision, Findings of Fact, ¶¶ 7, 17 and 18.

⁴ Id. ¶¶ 10, 20 and 23.

supported services throughout the area and advertise the availability of such services. GCC is not offering fixed wireless service nor is it advertising the availability of a fixed wireless service throughout South Dakota.⁵

The SDPUC's analysis was quite sound:

18. . . . Although GCC argues that there is no requirement that a requesting carrier actually offer the services at the time of its application, the plain language of the statute reads otherwise.

19. Moreover, GCC's application clearly demonstrates the reasons why a requesting carrier must actually be offering the supported services before applying for ETC status. The record shows that since GCC is not currently providing services through fixed wireless, it is impossible to determine whether GCC will meet ETC requirements when it actually begins to provide a universal service offering through a fixed wireless system.

20. First, it is unclear whether all customers in the state would be able to use a fixed wireless system if the Commission had granted ETC status to GCC. GCC has applied for ETC status in 13 states and asserted that it would be able to implement universal service immediately if it were designated an ETC. Tr. at 65. However, GCC's current network infrastructure does not serve the entire state. Tr. at 31, 80-81; Exhibit 9. GCC admitted that it could not provide service to every location in South Dakota. Tr. at 99. GCC would have to make changes and improvements to its network infrastructure in order to improve its voice quality for fixed wireless customers. Exhibit 4 at 12. It would need to construct additional cell sites as well as install high gain antennas and network equipment at customer locations. Exhibit 4 at 7-8. Tr. at 109-110. The antennas would either be a small antenna attached to a fixed unit or a permanent antenna on the roof. Tr. at 92.

21. As an example of a fixed wireless offering, GCC noted the provisioning of fixed wireless service in Reese River Valley and Antelope Valley in Nevada and in North Dakota. Exhibit 4 at 8; Tr. at 100. In both of those cases, GCC had to put in extra cell sites to improve its fixed wireless service. Tr. at 99-100. In Nevada, GCC had to construct another cell site in order to give customers improved

⁵ Id. ¶ 18 (emphasis added).

service because the original fixed wireless system had problems with blocking. Id.⁶

In other words, “shall” is a command; it means “must,” and there are good reasons for Congress to have meant “must.”

The SDPUC also reasoned in the alternative that good intentions without further evidence is not sufficient:

22. Even if the Commission could grant a company ETC status based on intentions to serve, the Commission finds that GCC has failed to show that its proposed fixed wireless system could be offered to customers throughout South Dakota immediately upon being granted ETC status.

23. Second, GCC has not yet finalized what universal service offering it plans to offer to consumers. Exhibit 4 at 13. This lack of a definite plan creates questions as to its ability to offer universal service based on fixed wireless technology throughout the entire state. For example, GCC first stated that it had not set a rate for its universal service offering because GCC would first need to know what forms of subsidies it would receive. Tr. at 33-34, 89, 114. . . .In addition, GCC would need to construct additional cell sites at an average cost of \$200,000 per site. Tr. at 109, 133. GCC stated that it would pay for any necessary antennas. Tr. at 102. GCC asserted that it would provide customer premise equipment and that all of these expenses would be factored into the cost of providing the service. Tr. at 109, 110. The units that are attached to the houses cost approximately \$300 to \$400 per unit. Tr. at 72. However, at the same hearing, GCC also stated it would provide service at a price comparable to that charged by the incumbent local exchange company. Tr. at 95.

24. The commission finds that GCC’s statements on pricing demonstrate the lack of a clear, financial plan to provision fixed wireless service throughout the state. If GCC needs to know what subsidies it may receive before pricing its service to ensure that its costs will be covered, then the Commission does not understand how it can also say that the price of that service will be comparable with that charged by the incumbent local exchange company. GCC did not show

⁶ Id. ¶¶ 18-21 (emphasis added).

to the Commission that it had a viable financial plan to provide fixed wireless service throughout South Dakota.

25. Moreover, GCC's reference to its provisioning of fixed wireless service in Reese River Valley and Antelope Valley, Nevada, only strengthens the Commission's concerns as to the viability of GCC's being able to offer a fixed wireless service throughout South Dakota. In Reese River Valley and Antelope Valley, Nevada, customers paid \$13.50 for fixed wireless service. Exhibit 10 at 7. However, this service was highly subsidized. Nevada Bell was billed by GCC for cellular charges that exceeded the flat local rate. *Id.* at 13-14. GCC charged Nevada Bell 37 cents a minute during the day and 25 cents a minute at night for each minute that exceeded the flat monthly rate. *Id.* at 14; Tr. at 70. Nevada Bell also paid for summary billing reports which were estimated to cost approximately \$14,000. Exhibit 10 at 13; Tr. at 69. GCC was also authorized to bill Nevada Bell for non-recurring charges. Exhibit 10 at 15.⁷

Even if intentions could be a part of a legitimate application, they must be backed by at least a prior successful implementation and a viable financial plan. WWC provided neither.

Moreover, the SDPUC really needed what 47 U.S.C. Section 214(e)(1) requires before it could approve the application:

26. The Commission finds that if GCC were actually providing a universal service offering throughout the state by the use of a fixed wireless system, then the Commission would know whether there were problems with the provisioning of the service, whether GCC was offering all of the supported services, and whether it was able to offer service to customers throughout the state of South Dakota.⁸

The SDPUC then summed up its well-supported holding in the following manner:

6. The Commission finds that pursuant to 47 U.S.C. § 214(e), an ETC must be actually offering or providing the services supported by

⁷ *Id.* ¶¶ 22-25.

⁸ *Id.* ¶ 26.

the federal universal service support mechanisms throughout the service area before being designated as an ETC. GCC intends to provide a universal service offering initially through a fixed wireless system. However, it does not currently offer fixed wireless service to South Dakota customers. The Commission cannot grant a company ETC status based on intentions to serve.⁹

Dissatisfied with this result, WWC is now in front of this Commission hoping to overturn the SDPUC's unassailable holding and reasoning. WWC claims that the standard imposed should not have been whether it offered and advertised, but whether it intended to offer and advertise and had the capacity to do so throughout the proposed service area, and that it passes this proposed standard.¹⁰

Unfortunately for WWC, but fortunately for the public interest, its proposed standard is contradicted by the law, and it does not even meet its own proposed standard in any event.

III. ANALYSIS

A. WWC Failed To Meet Even Its Own Proposed Standard

The whole point of this proceeding is moot because WWC failed even the watered-down standard it proposes. WWC contends that the SDPUC should have held that ETC status can be granted if the applicant merely shows the capacity to offer and advertise throughout its proposed service area and the intent to do so.¹¹

But the record evidence shows that WWC failed to make even this showing.¹² WWC does not challenge this finding or submit evidence to contradict it. The only

⁹ Id. Conclusion of Law ¶ 6 (emphasis added).

¹⁰ WWC Petition at 4.

¹¹ Id.

evidence is that of good intention, and even WWC does not contend that is the proper standard. Therefore, this argument must be rejected as not only misguided, but moot.

B. The SDPUC Decision Was Compelled By Law And FCC Rules And Policies, And Therefore, Cannot Be Preempted

WWC proposes two reasons that the SDPUC decision “thwarts and impedes” federal goals and violates precedent, but both proposed reasons ring hollow.

1. The Act Mandates The Offer-And-Advertise Requirement

First, WWC posits that SDPUC employed the wrong procedure, claiming that carriers are entitled to ETC status upon a showing of good intention, citing the Universal Service Report and Order.¹³ The fallacy of that position is the use of the word “shall” in Section 214(e)(1), which is a command and thus quite different from the mere intent standard proposed by WWC. Congress made its disagreement with WWC’s position clear in 47 U.S.C. Section 214(e)(2): “the State commission . . . shall . . . designate more than one common carrier as an eligible telecommunications carrier . . . , so long as each additional requesting carrier meets the requirements of paragraph (1).”¹⁴ If Congress intended carriers to be able to obtain ETC status based solely on their intent to meet the strictures of Section 214(e)(1), then it would have said so. Instead, it used the present tense (“meets”),

¹² SDPUC Decision, Findings of Fact, ¶¶ 22-25.

¹³ In the Matter of Federal-State Joint Board on Universal Service, Report and Order, 12 FCC Rcd. 8776, 8853 ¶ 137 (1997) (“Report and Order”).

¹⁴ 47 U.S.C. § 214(e)(2) (emphasis added).

and it made clear that Section 214(e)(1) contains “requirements” for ETC status, not mere “aspirations,” as WWC would have it.

On more than one occasion, the FCC has interpreted “shall” as “must,” which of course is the usual statutory meaning of the term. First, in its rules, the FCC stated:

Requirement to offer all designated services. An eligible telecommunications carrier must offer each of the services set forth in paragraph (a) of this section in order to receive federal universal service support.¹⁵

Thus, WWC’s interpretation makes a mockery of the statute, the rules and the underlying intent.

Second, in its Seventh Report and Order, it again used the present tense:

“All carriers . . . that provide the supported services . . . are eligible for ETC status. . . .”¹⁶

The only other state ruling on this issue, which is from Oklahoma, confirms this interpretation.¹⁷ Accordingly, WWC’s mere unenforceable intent to provide supported services in the future is not enough to satisfy ETC requirements.

¹⁵ 47 C.F.R. § 54.101(b) (italics in original; underlining added).

¹⁶ In the Matter of Federal-State Joint Board on Universal Service, Access Charge Reform, Seventh Report & Order and Thirteenth Order on Reconsideration in CC Docket No. 96-45 Fourth Report & Order in CC Docket No. 96-262 and Further Notice of Proposed Rulemaking, 14 FCC Rcd. 8078, 8113 ¶ 72 (1999) (emphasis added); pets for rev. pending, Vermont Dept. of Public Service v. FCC, File No. 99-60530 (5th Cir.).

¹⁷ Application of GCC License Corporation for Certification as an Eligible Telecommunications Carrier pursuant to the Telecommunications Act of 1996, Cause PUD No. 980000470 at 3-4 (OCC, 5/13/99) (Official Transcript of Proceedings, Oral Ruling of the ALJ; attached hereto as Appendix 1).

This was again most recently confirmed in the TOPUC case, where the portion of the Report and Order cited by WWC was reversed by virtue of the holding that states have authority to add ETC criteria.¹⁸ Moreover, in that same opinion, the Court made clear that the word “shall” in the Act does not mean “should” or “may” – as WWC would have it – it is a command.¹⁹ Thus, governing law as well as common sense mandate the confirmation of the SDPUC’s holding.

2. The SDPUC Was Entitled To Consider Affordability

WWC also argues that the SDPUC’s consideration of affordability was unlawful. Again, merely to state the argument effectively rebuts it; it defies the essence of universal service – affordable, ubiquitous service.²⁰ Moreover, as confirmed in TOPUC, the public interest is a factor in all ETC determinations pursuant to 47 U.S.C. Sections 214 and 254(b)(7).²¹ In addition, as already noted, the TOPUC court declared that state commissions have the discretion to add ETC criteria they see fit that are consistent with universal service, and affordability is at the heart of universal service.²² Also, the affordability aspect of the SDPUC decision was not necessary to its result, which rested squarely on the offer-and-advertise requirement.²³

¹⁸ TOPUC at *37-*42, part III.A.2.a.

¹⁹ Id. at *39-*40, part III.A.2.a.

²⁰ See 47 U.S.C. § 254(b).

²¹ TOPUC at *40, part III.A.2.a (public interest applies to all areas, not just those served by rural carriers).

²² See note 18 supra.

²³ SDPUC Decision, Findings of Fact ¶ 18.

Finally, as TOPUC confirmed, WWC's argument that it is exempt from ETC affordability requirements by Section 332(c)(3)(A) is misguided. That section provides, in relevant part, the following:

Nothing in this subparagraph shall exempt providers of commercial mobile services (where such services are a substitute for land line telephone exchange service for a substantial portion of the communications within such State) from requirements imposed by a State commission on all providers of telecommunications services necessary to ensure the universal availability of telecommunications service at affordable rates.²⁴

In parsing this section, the TOPUC court found that requirements on wireless ETC rates that are necessary for affordable universal service are proper under 47 U.S.C. Section 332(c)(3)(A) upon a finding of landline substitutability:

States (1) in general can never regulate rates and entry requirements for CMRS providers; (2) are free to regulate all other terms and conditions of CMRS service; (3) may regulate CMRS rates and entry requirements when they have made a substitutability finding in connection with universal service programs; and (4) may also regulate CMRS rates if they petition the FCC and meet certain statutory requirements, including either substitutability or unjust market rates.²⁵

Landline substitutability itself is necessary for ETC status in the name of the public interest requirement due to the right of relinquishment in 47 U.S.C. Section 214(e)(6). In other words, because the incumbent ETC has the absolute right to relinquish, the new applicant must prove it provides a good substitute for a landline carrier. Therefore, affordability was a proper consideration for the SDPUC.

²⁴ 47 U.S.C. § 332(c)(3)(A). And see TOPUC at *84.

²⁵ TOPUC at *89.

The SDPUC's Decision merely put into action the legal maxim that the duties of universal service run with the benefits of support. 47 U.S.C. Section 214(e)(1) mandated the result here because of WWC's failure to offer and advertise or even show a capability to do so. This reasoning was confirmed in TOPUC. This result is good policy to ensure there are no free riders on the universal service fund. Thus, WWC's argument that the SDPUC went too far is misguided as a matter of law. Consequently, WWC's thwart-and-impede and precedential arguments for preemption are wrong and must be rejected.

3. The SDPUC's Decision Does Not Constitute An Unlawful Barrier To Entry; Indeed, It Is A Necessary Safeguard To The Federal Universal Service Fund

WWC's other attempt to establish preemption also must fail. In this argument, WWC contends that the SDPUC holding is preempted as an unlawful barrier to entry under 47 U.S.C. Section 253. Barriers to entry are a rare economic phenomenon, and it takes an intense factual inquiry to determine the presence of one. Nevertheless, WWC failed to submit a single piece of evidence to this Commission or to the SDPUC to prove its claim that enforcing the law on ETCs is a barrier to entry. Thus, this argument must fail for lack of any evidentiary support whatsoever.

Moreover, no evidence was submitted to support WWC's claim because none exists. Compare WWC's claim to U S WEST's reality in South Dakota: WWC claims it is impossible to impose ETC obligations before granting ETC status. However, U S WEST is an ETC offering and advertising throughout its service area,

and it receives absolutely no support in South Dakota. To require less of WWC would violate the universal service principle of competitive neutrality. Moreover, nothing prevents WWC from charging less expensive residential rates in high cost areas and subsidizing them with rates it charges business customers.

Further, the whole universal service scheme is set up on the principle that benefits follow obligations, not the other way around. In particular, currently, high cost universal service support is paid out two years after the period for which the cost is incurred. Why would the process for gaining ETC status follow a different model?

What is more, even if evidence of a barrier to entry had been submitted, the SDPUC Decision would still be lawful and not preempted under 47 U.S.C. Section 253(b). That section allows barriers to entry that that are necessary for universal service, consistent with 47 U.S.C. Section 254 and competitively neutral:

(b) State regulatory authority. Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 254, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.²⁶

47 U.S.C. Section 214(e)(1)'s explicit requirement to offer and advertise – even if it were a barrier – meets this exemption. As noted above, the 47 U.S.C. Section 214(e)(1) offer-and-advertise requirement is necessary to ensure the viability of federal universal service and that support is used for proper Section 254 purposes. In addition, the offer-and-advertise requirement is competitively neutral; on its very

face, Section 214(e)(1) applies to all ETC applicants. As a result, even if the offer-and-advertise requirement were a barrier to entry, it would be a lawful one, exempting the SDPUC Decision from preemption.²⁷

C. Even If Preemption Were Mandated, WWC Would Only Be Entitled To A Remand, Not An Order Granting ETC Status

Even if preemption were called for, WWC's request for an order from this Commission requiring the SDPUC to grant ETC status is wrong. The proper remedy would be a remand to resolve the other issues that would be necessary to the grant of an ETC determination, but which were not decided by the SDPUC because the resolution of such issues was not necessary in light of the SDPUC's rejection of the application on the offer-and-advertise requirement. These remaining issues would include, without limitation, the following:

- Has WWC met its proposed standard? (As noted above, the SDPUC has already concluded it has not.)
- Given WWC's failure to show capability, are good intentions alone sufficient? (Again, as noted above, the SDPUC has already concluded it has not.)
- Has WWC met the affordability requirement? (See SDPUC Decision, Findings of Fact, ¶¶ 23-25.)
- Has WWC met the local usage requirement? (See SDPUC Decision, Findings of Fact, ¶ 12.)
- Has WWC met the proper quality standard? (See SDPUC Decision, Findings of Fact, ¶ 9.)

²⁶ 47 U.S.C. § 253(b).

²⁷ For the very same reasons, the SDPUC Decision is exempt from preemption by virtue of Section 253(e), which states that "[n]othing in this section shall affect the application of section 332(c)(3) . . . to commercial mobile service providers." 47 U.S.C. § 253(e).

- Has WWC met the landline substitutability requirement imposed as a result of the 47 U.S.C. Section 214(e)(6) right of relinquishment?
- Has WWC otherwise met the public interest test?
- Has WWC met the other criteria the SDPUC is privileged to impose in the interest of universal service?

No grant of ETC status can precede the answers to these questions; therefore, the proper remedy, if any, would be a remand.

IV. CONCLUSION

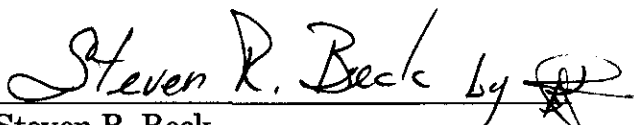
The SDPUC acted correctly and lawfully in denying WWC's ETC application. That application was barren of evidence to satisfy the explicit offer-and-advertise-throughout requirement of 47 U.S.C. Section 214(e)(1). WWC acknowledged this, but contended that it was sufficient that WWC proved it had good intentions and the capacity to offer and advertise universal service throughout. However, the SDPUC found (and WWC has not challenged this finding) that WWC had utterly failed to prove itself capable of offering and advertising universal service throughout the proposed service area. In essence, WWC has thus conceded this case. Intent is all WWC offered up to satisfy the duty to actually offer and advertise. This matter is just that simple. The petition must therefore be denied.

Moreover, the law and universal service principles properly require much more than good intentions. WWC used hyperbole and parade-of-horribles scare tactics to claim that enforcing the plain text of the Act violated the Act's prohibition on certain barriers to entry. However, WWC provided not a scintilla of evidence to support its claim. In fact, by requiring more than benign intent and merely

enforcing the explicit terms of the Act, the SDPUC did not erect a barrier to entry of any sort. And, even if the offer-and-advertise requirement could be misread as a barrier, it would be a lawful one in the name of universal service purposes under 47 U.S.C. Sections 253(b) and (e).

Respectfully submitted,

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Of Counsel

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September 2, 1999

APPENDIX 1

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA

APPLICATION OF GGC LICENSE
CORPORATION FOR CERTIFICATION AS
AN ELIGIBLE TELECOMMUNICATIONS
CARRIER PURSUANT TO THE
TELECOMMUNICATIONS ACT OF 1996

CASE NO.
980000470

FILED
MAY 13 1999

COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

TRANSCRIPT OF PROCEEDINGS

ORAL RULING OF THE ALC

MAY 13, 1999

OFFICIAL REPORTER:

LYNETTE R. WRAY, C.S.R.

OKLAHOMA CORPORATION COMMISSION - OFFICIAL TRANSCRIPT

EXHIBIT

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APPEARANCES

No appearances were taken.

STATEMENT OF CAUSE

This Cause FUD 980000470 came on for hearing on the 13th day of May, 1999, before Robert Goldfield, Administrative Law Judge for the Corporation Commission of the State of Oklahoma, for the purpose of hearing giving an oral ruling on the merits and reporting thereon to the Commission.

The cause was called for hearing and the following proceedings were had:

OFFICIAL REPORTER:

LYNETTE H. WEAVER, C.S.R.

OKLAHOMA CORPORATION COMMISSION - OFFICIAL TRANSCRIPT

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PROCEEDINGS

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THE COURT: Okay. GCC application. Open the record please in PUD 88-470.

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I am recommending the application of GCC License Corporation be denied. This Applicant doesn't meet any of the prerequisites necessary to be considered to be designated as an eligible telecommunications carrier for purposes of obtaining universal service support.

The application and testimony are replete with statements of "we will" or "we may in the future" follow some unknown criteria that the applicant failed to divulge in this case. The Applicant's plan, or lack thereof, put so little forward for consideration that not only does the Applicant fail to rise to the level necessary for consideration for designation as an ETC in the rural exchanges, but the Applicant doesn't even rise to the level necessary for consideration in the Southwestern Bell Telephone exchanges.

GCC does not now provide the services that are necessary as a part of the universal service package and cannot even determine if it will offer all of the services that are considered a part of a universal service package.

And, obviously, GCC does not advertise that which it doesn't provide or will provide. In fact, GCC readily admits that it cannot determine the pricing of the

1 1b-4
2 service at this time, which is a primary element of public
3 interest.

4 Further, it is not in the public interest to
5 grant OCC's application when it refuses to accept any of the
6 burdens associated with the ETC designation, such as OCC
7 oversight of quality of service, pricing and consumer
8 complaints and its carrier of last resort obligations.

9 And, finally, I find no evidence presented
10 where the public would benefit from the granting of this
11 application.

12 I'm going to ask that a written report be
13 prepared. I'm going to ask Staff to prepare the procedural
14 history, please. I'm going to ask Mr. Coningdeer's office
15 if you will prepare the findings and recommendations. And
16 each individual party, prepare your summary of your
17 testimony that was presented at the hearing and forward that
18 to Mr. Coningdeer to put in a final draft.

19 And then, Mr. Coningdeer, if you will see
20 that it is circulated, and if everybody agrees to the
21 report, then fine. If not, if there is disagreement, give
22 it either in caps or underline it, the way we do then, and I
23 will make the final decision and language that will go in
24 when the report goes out. Okay?

25 We will close the record on that matter.
Thank you.

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COUNTY OF OKLAHOMA)
2) ss.
3 STATE OF OKLAHOMA)
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REPORTER'S CERTIFICATE

8 I, LINETTE H. WRANY, Official Court Reporter within and
9 for the Corporation Commission of the State of Oklahoma, do
10 hereby certify that the above and foregoing is a true and
11 complete transcript of the record made before the
12 Corporation Commission of the State of Oklahoma in Cause
13 Number PUD 980000470, heard on the 13th day of May, 1999.

14 IN WITNESS WHEREOF, I have hereunto set my hand and
15 seal as such Official Court Reporter on this, the 13th day
16 of May, 1999.
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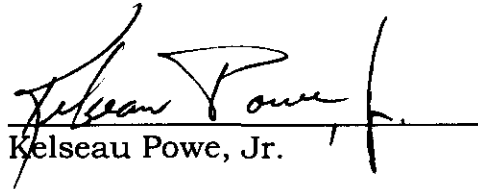
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Exp. Date 07/31/2000

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LINETTE H. WRANY, C.S.R.
OFFICIAL COURT REPORTER
OKLAHOMA CORPORATION COMMISSION

OKLAHOMA CORPORATION COMMISSION - OFFICIAL TRANSCRIPT

CERTIFICATE OF SERVICE

I, Kelseau Powe Jr., do hereby certify that on the 2nd day of September, 1999, I have caused a copy of the foregoing **U S WEST COMMUNICATIONS, INC. COMMENTS** to be served, via hand delivery* or first class United States mail, postage prepaid, upon the persons listed on the attached service list.


Kelseau Powe, Jr.

*Served via hand delivery

*William E. Kennard
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